



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Sara L. Hensley

**SUBJECT: SECOND AMENDMENT TO
PAL FITNESS CENTER
AGREEMENT**

DATE: 5-10-04

Approved

Date

COUNCIL DISTRICT: Citywide

SNI AREA: Gateway East

RECOMMENDATION

Approve the second amendment to the agreement between the City of San José and San Jose Police Activities League (PAL) to increase the maximum compensation from \$639,000 to \$659,000 for construction of a fitness center at PAL Sports Center, to make \$62,966 available to PAL due to project savings and to identify the applicable inspection standard as the building code.

BACKGROUND

The City is owner of the property located at 680 South 34th Street in San José, including facilities known as the PAL Stadium or the PAL Sports Center. PAL currently operates the sports center pursuant to a License Agreement entered into January 26, 1983 and expiring July 25, 2004. PAL desires to design and construct a fitness center facility and related improvements on the property and shall provide the design services, materials and labor for the construction and installation of the center. City and PAL entered into a separate agreement regarding the construction of the fitness center on August 14, 2001, which was amended on February 25, 2002.

ANALYSIS

The second amendment increases the amount of construction funding available for the PAL Fitness Center project and increases the total funding of the Agreement by \$20,000. The amendment reduces the costs allocated under the Agreement for City inspection costs by \$42,966, which funding savings will be applied against PAL's construction costs. If the amendment is approved, the amount available to PAL will increase by \$62,966. The original

“available amount” of the agreement as modified by the first amendment was \$573,220 (which reflects the original contract amount \$639,000 minus City costs for City inspections, City costs incurred in preparing preliminary drawings and the 2% allocation for public art). The additional \$20,000 in overall funding for the PAL Fitness Center project resulted from Parks, Recreation and Neighborhood Services (PRNS) fall budgetary clean up of FY 2001-2002. As part of the fall budgetary clean up, PRNS requested an additional \$20,000, which was appropriated by City Council on October 16, 2001, Resolution No. 70664, to assist with delivering the PAL Fitness Center project. The additional funding from the City of San José to PAL will assist with purchasing furniture, fixtures and equipment (FF&E) for the PAL Fitness Center project.

This amendment also modifies inspection responsibility and the applicable standards of construction to accurately reflect how these services were delivered. The amendment identifies the Director of Planning, Building and Code Enforcement as responsible to inspect the project and to verify that the construction of the public improvements meets minimum Code Standards. The original agreement provided that the Director of Public Works would inspect the project and verify that the improvements are constructed in conformance with the City’s standard specifications. The facility was constructed in compliance with all applicable Codes, however, the architect’s specifications were accepted during the construction phase in order to stay within the allocated costs. Approval to have the Building Department conduct inspections instead of the Department of Public Works and to accept the architect’s specifications, rather than the City’s standard specifications, was given by the City Manager’s Office on July 24, 2002. According to the Department of Public Works, the City’s Standard Specifications are primarily oriented toward landscaping and street improvements and generally do not apply to building construction. Therefore, it is appropriate to accept architectural drawings, which meet applicable building code standards as adequate.

The Department of Public Works will accept the building on behalf of the City, thereby verifying that the improvements are consistent with the City’s construction policies and maintenance standards.

If the second amendment is approved, the total amount of available City funding to support this project shall increase from \$639,000 to \$659,000.

COORDINATION

The proposed amendment has been coordinated with the City Manager’s Budget Office, City Attorney’s Office, the Department of Public Works, the Department of Planning, Building and Code Enforcement, and the San José Police Department.

HONORABLE MAYOR AND CITY COUNCIL

05-10-04

Subject: Second Amendment to PAL Fitness Center Agreement

Page 3

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amt. For Contract	Proposed Budget Page	Last Budget Action (Date, Ord. No.)
001	6759	Youth Fitness at PAL Stadium		52,000		Page 601	
391	4169	PAL Gymnasium		13,000		Page 601	
		<u>Total</u>		\$65,000			

CEQA

PP01-07-133, Categorical Exemption.

SARA L. HENSLEY
Director of Parks, Recreation and
Neighborhood Services